IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7428 OF 2006

KALYAN DOMBIVALI MUNICIPAL
CORPORATION & ANR. ..PETITIONERS

V/S

F.M. SHAIKH & ANR. ..RESPONDENTS

R.D. Suryavanshi for the Petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 9TH JANUARY, 2007.

P.C.

1. The order passed by the Industrial Court allowing the complaint filed by the Respondents is challenged in the instant Writ Petition. The Respondent was charged for the misconduct and was proceeded against in the Departmental Enquiry. The Enquiry officer exhonerated the Respondent - Employee of the charge of misconduct and did not recommend any action to be taken. The disciplinary authority did not concur with the view taken by

the Enquiry officer and passed an order of punishment in the nature of withholding of 3 increments. It is not in dispute that before the Disciplinary authority imposed a punishment, rejecting the finding recorded by the Enquiry officer, Respondent was not given opportunity of hearing. It is on this ground that the Industrial Court allowed the complaint and the action has been found to have taken in breach of the principles of natural justice. The Industrial Court has relied upon two Judgments of this court to hold that the employee is entitled to hearing, when the disciplinary authority disagrees with the finding recorded by the Enquiry officer and proceeds to punish the employee.

2. Perused the impugned order. No interference is called for. The petition is summarily dismissed.

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(A.P.DESHPANDE, J.)